

ORIGINAL

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*Western Communications, Inc.*

3106 S. HIGHWAY 79 • RAPID CITY, SD 57701 • PHONE 605-342-7885



November 17, 2000

Ms. Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TW-A-325  
Washington, DC 20554

RE: EX PARTE, PR-Docket No. 93-144

Dear Secretary Salas,

In accordance with Section 1.206 of the Commission's rules, Western Communications, Inc. hereby provides an original of this letter and two copies of the enclosed letter mailed today to Thomas Sugrue, Chief of the Federal Communication Commission's Wireless Telecommunications Bureau. This filing should be associated with the above-captioned proceeding.

Thank you for your attention in this matter.

Respectfully,

A handwritten signature in cursive script that reads 'Michael A. Lees'.

Michael A. Lees  
President  
Western Communications, Inc.

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November 17, 2000

Thomas Sugrue, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Opposition to Nextel's request for Extension of Mandatory Negotiation  
Period: EX PARTE, PR Docket 93-144

Dear Mr. Sugrue,

It has recently come to my attention that Nextel has submitted an October 24, 2000 request to your office to extend the Mandatory Negotiation Period between all 800 MHz upper-200 SMR channel EA licensees and the upper-200 channel incumbent licensees. I strongly oppose any extension of the Mandatory Negotiation period or any other Nextel ploy to further gain additional advantages in their negotiations with the incumbent licensees.

The realities of the negotiation process between Nextel and incumbent licensees are quite different that the ridiculous explanation presented in Nextel's October 24, 2000 letter written by Lawrence. R. Krevor. First of all, there were only a handful of incumbents involved in Auction 34 for the Lower 150 General Category 800 MHz. channels and in Auction 36 for the 80 SMR channels. Not counting Nextel, there were only 25 other bidders in Auction 34 and only 27 in Auction 36. It seems extremely presumptuous of Nextel to request a change in an FCC ruling because Nextel could not talk to 52 out of the thousands of 800 MHz. incumbents.

Further, I disagree with Mr. Krevor's statement that "both EA licensees and incumbents have lost a significant amount of time to complete relocation transactions". From my personal dealings with Nextel, it is my perception that Nextel deliberately delayed negotiating with incumbents until the completion of Auction 34 where they acquired additional channels they could use for relocation. The only semi-realistic relocation offer I have received from Nextel came immediately after Auction 34. This relocation offer was entirely comprised of Auction 34 general category channels where Nextel was the high bidder, but where licenses have not yet been issued by the FCC.



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Nextel wasn't inconvenienced by FCC Auction 34, they were overjoyed by the negotiating advantage granted to Nextel by the FCC by having the auction before the end of the Mandatory Negotiation period for the Upper 200 SMR channels. For any area where Nextel was faced with a shortage of channels to exchange during relocation, all they had to do was wait until the conclusion of Auction 34 to gather up all the trading stock they needed. It takes a remarkable amount of nerve on Nextel's part to stall negotiations until a huge competitive negotiating advantage is dropped in their lap and then come to the FCC and request more time to use this new advantage! Every incumbent licensee I know was ready to negotiate the day after the Upper 200 channel 800 MHz auction, but it takes two parties to negotiate. Nextel was well aware of the incumbent landscape and the time frame for negotiations, before they ever got into the Upper 200 SMR channel auction and should not be granted any extension for negotiations.

Finally, it would appear to me that the FCC has already answered this question in DA 00-1602, the FCC response to: Emergency Motions of Small Business in Telecommunications(SBT) for Stay of the 800 Mhz Specialized Mobile Radio (SMR) Service Auctions. The FCC has concluded in the final sentence of paragraph 6 in DA 00-1602: " Although we recognize that upper channel incumbents are currently in the second phase of the three-phase process the Commission established, we believe that 18 to 20 months provides a reasonable opportunity for incumbents to relocate."

The FCC clearly established it's position when the incumbents, through their SBT spokesman, sought a delay in an effort to merely keep the same ground rules as originally established by the FCC in the Upper 200 SMR channel auction. It would now seem appropriate that the FCC would continue this position when Nextel seeks to gain yet another negotiating advantage.

Respectfully,

A handwritten signature in cursive script, appearing to read 'Michael A. Lees'.

Michael A. Lees  
President  
Western Communications, Inc.